

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK**

JERMAINE E. CRAWFORD,

Plaintiff,

v.

13-CV-001(Sr)

THE CITY OF LITTLE VALLEY, et al.,

Defendants

DECISION AND ORDER

On August 4, 2016, the Court issued its Decision and Order reinstating plaintiff's claim of deliberate indifference to medical needs against Captain French and otherwise granting defendants' motion for summary judgment. Dkt. #52. That Decision and Order was mailed to plaintiff. Dkt. #52. Later that day, the Clerk of the Court updated plaintiff's address to 407 Irvine Street, Paris, TN 38242. Dkt. #53. A copy of the Decision and Order on the motion for summary judgment (Dkt. #52), was mailed to plaintiff's updated address on August 9, 2016.

On August 28, 2016, plaintiff sent a letter updating his address to 345 Harrison St., Apt. D-3, Paris, TN 38242. Dkt. #55. An Order setting a Status Conference for September 21, 2016 was mailed to plaintiff at that address on September 21, 2016. Dkt. #59. That mailing was returned to sender on October 6, 2016.

An Order to Show Cause was issued on October 6, 2016 (Dkt. #61), and the case was dismissed on November 29, 2016. Dkt. #62. Neither the Order to Show Cause nor the Judgment was returned as undeliverable.

By letter dated November 23, 2017, plaintiff informed the Court that he was incarcerated at the Gibson County Jail. Dkt. #63.

On December 21, 2017, plaintiff filed a motion to appoint counsel on the ground that his incarceration will limit his ability to litigate this case, which is complex and requires significant research and investigation. Dkt. #64. Given that plaintiff's case has been terminated, his motion to appoint counsel is denied without prejudice.

Plaintiff may move to reopen this matter in accordance with Rule 60(b) of the Federal Rules of Civil Procedure, which affords the Court discretion to reopen the case upon plaintiff's demonstration of exceptional circumstances justifying his lack of communication with the Court for a period of more than 15 months. See *Jolin v. Casto*, 238 F.R.D. 48 (2006).

SO ORDERED.

DATED: Buffalo, New York
January 19, 2018

s/ H. Kenneth Schroeder, Jr.
H. KENNETH SCHROEDER, JR.
United States Magistrate Judge